UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.40
19 August 1994

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bengoa, Mr. Chernichenko, Mr. El-Hajje, Mrs. Forero Ucros, Mr. Guissé, Mr. Hatano, Mr. Joinet, Mr. Fix Zamudio, Mr. Maxim, and Mrs. Palley: draft resolution

Situation of human rights in Guatemala

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the other international human rights instruments, as well as by the relevant norms and principles of international humanitarian law,

Recalling its resolution 1993/16 of 20 August 1993,

Bearing in mind that, in its resolution 1994/58 of 4 March 1994, the Commission on Human Rights took note with appreciation of the report by the

independent expert on the situation of human rights in Guatemala, Ms. Mónica Pinto (E/CN.4/1994/10), which contains important recommendations to improve the human rights situation in the country,

Taking note with satisfaction of the signing of the agreements between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca,

Having considered the Framework Agreement for the Resumption of the Negotiating Process for a Firm and Lasting Peace between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, signed in Mexico on 10 January 1994,

Recalling further that the Parties agreed in the Framework Agreement that all their agreements should be accompanied by appropriate verification mechanisms at both the national and the international levels, and that the United Nations will be responsible for such international mechanisms,

Emphasizing the importance of the signing of the Comprehensive Agreement on Human Rights, the Agreement on a Timetable for a Firm and Lasting Peace, the Agreement for the Resettlement of the Populations Uprooted by the Armed Confrontation and the Agreement on the Establishment of the Commission to Investigate Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan Population, signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, the first two in Mexico on 29 March 1994 and the third and fourth in Oslo on 17 and 20 June 1994, respectively,

Taking into consideration that, in the Comprehensive Agreement on Human Rights, the parties request the Secretary-General to organize a mission for the verification of compliance with commitments contained in the Agreement,

Mindful of the importance of the role to be played by the Assembly of Civil Society, provided for in the Framework Agreement, in making recommendations to the Parties on the most important points of the negotiations, including those relating to the identity and rights of indigenous peoples,

Concerned because, more than four months after the signing of the Comprehensive Agreement on Human Rights, the above-mentioned United Nations verification mission has still not been established,

Concerned that there continue to be complaints about human rights violations, despite the signing of the agreements, frequently attributed to members of the armed forces and the security forces, as well as the so-called voluntary civil self-defence committees,

Concerned also at the fact that cases of impunity continue to exist and little progress has been made in the investigations and judicial proceedings concerning cases of human rights violations,

Concerned further at the situation of the displaced population in the areas affected by the internal armed conflict, as well as the extremely difficult conditions in which returnees are living,

Distressed at the persistence of the age-old marginalization and discrimination suffered by the indigenous populations in Guatemala,

1. Expresses its support for the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, as well as the United Nations Moderator, for their endeavours to secure a firm and lasting peace;

2. Expresses its firm support for the independent expert responsible for reporting on the situation of human rights in Guatemala, Ms. Mónica Pinto, and requests the Government of Guatemala to continue to cooperate fully with her;

3. Expresses its concern at the fact that the signing of the Comprehensive Agreement on Human Rights has not led to an improvement in the human rights situation;

4. Exhorts the Government of Guatemala to intensify its efforts to guarantee full respect for human rights by all the authorities, the armed and security forces and to bring to trial anyone guilty of serious violations of human rights and guarantee proper functioning of the administration of justice;

5. Requests the Government of Guatemala, as soon as possible, to increase economic and social development programmes and to strengthen in particular policies and programmes concerning the indigenous population, promoting its full participation, taking into account its proposals and respecting the country's multicultural nature;

6. Requests all the Parties to proceed to fulfil the commitments entered into and in particular requests the Government to implement the Comprehensive Agreement on Human Rights, which has been in force since 29 March 1994, and any

other immediately applicable provision, as well as to prepare the urgent and necessary conditions for prompt implementation of the other agreements, once the Firm and Lasting Peace Agreement is signed;

7. Appeals, to this end, to the Secretary-General for him, by every means at his disposal, to ensure the establishment, as soon as possible, of the United Nations Verification Mission in Guatemala;

8. Requests the Parties to take into special account, for the purposes of future agreements, the proposals agreed on by the Assembly of Civil Society and encourages the Assembly to continue its constructive work in finding consensus for the necessary transformation of the Guatemalan State and in society, in particular in all matters pertaining to full realization of the civil, political, economic, social and cultural rights of the entire population.

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UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.41
19 August 1994

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bengoa, Mr. Bossuyt, Ms. Chavez, Mr. El-Hajjé, Mrs. Forero Ucros, Mr. Decaux, Mr. Fix Zamudio, Mr. Maxim, Mrs. Palley, Mr. Ramadhane and Mrs. Warzazi: draft resolution

Situation of human rights in Haiti

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Reaffirming that all Member States have the obligation to promote human rights and to fulfil the obligations they have undertaken under the various instruments in this field,

Recalling the resolutions on the situation in Haiti adopted by the competent bodies of the United Nations and the Organization of American States since the events of 30 September 1991, in particular General Assembly resolution 47/143 of 18 December 1992, Commission on Human Rights

resolutions 1993/68 of 10 March 1993 and 1994/80 of 9 March 1994 and Sub-Commission resolutions 1992/16 of 27 August 1992 and 1993/18 of 20 August 1993, as well as the relevant resolutions of the Permanent Council of the Organization of American States and the General Assembly of that organization,

Having in mind the report (E/CN.4/1994/55) on the situation in Haiti prepared by the Special Rapporteur of the Commission on Human Rights, Mr. Marco Tulio Bruni Celli, in which he reports numerous violations of the right to life, security of person, freedom of expression, freedom of association and freedom of movement in that country,

Deeply concerned about the grave events in Haiti since 29 September 1991, which abruptly and violently interrupted the democratic process in that country and have resulted in the loss of human lives and violations of human rights,

Concerned at the mass exodus of Haitian nationals fleeing the country because of the steadily deteriorating political and economic situation since 29 September 1991,

Deeply alarmed at the persistence and worsening of violations of human rights, in particular, summary and arbitrary executions, involuntary disappearances, reports of the torture and rape of women and children, which have increased dramatically since 1993, arbitrary arrests and detentions, denial of freedom of expression, assembly and association, and the grave deterioration of the political, economic and social situation in the country,

Concerned about the expulsion, on 11 July 1994, by the de facto Haitian authorities of the International Civilian Mission of Observers of the United Nations and of the Organization of American States,

Taking into account the signature by all parties of the Governors Island Agreement of 3 July 1993 and the New York Pact of 16 July 1993,

Taking note of Security Council resolution 940 (1994) of 31 July 1994,

Observing that the de facto regime in Haiti has not implemented those agreements and has not fulfilled its obligations under the resolutions adopted by the United Nations Security Council,

Aware of the urgent need to keep a close watch on the situation of human rights in Haiti,

1. Once again strongly condemns the overthrow of the constitutionally elected President, Mr. Jean-Bertrand Aristide, and the use of violence and military coercion, and the deterioration of the situation of human rights in that country;

2. Expresses its conviction that the full implementation of the Governors Island Agreement by all parties is the only valid framework for resolving the crisis in Haiti and guaranteeing the constitutional order, in order to achieve an improvement in the human rights situation in the country, and that the refusal by the Haitian military to implement this Agreement has led to a deterioration of the human rights situation;

3. Expresses its deep concern about the considerable worsening of the human rights situation in Haiti since the coup d'état in September 1991 and the resulting increase in violations of the human rights embodied in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights and other international human rights instruments;

4. Again condemns the human rights situation, in particular since mid-1993, characterized by deaths, disappearances and assassinations, persecution, arbitrary arrests, torture, rape, improper demands by members of the armed forces for payment by citizens, abandonment of legislative programmes, the reappearance of the section chiefs, the banning of demonstrations and police repression of all acts of protest against the military authorities, as well as the grave deterioration of the political, economic and social situation in the country;

5. Draws the attention of the members of the international community to the fate of the Haitian nationals who are fleeing their country and requests their support for the efforts being made to assist them, inter alia, by considering possibilities of offering them temporary asylum;

6. Greatly hopes that the International Civilian Mission of Observers of the United Nations and of the Organization of American States will very soon be able to resume its work in Haiti, thus helping to prevent the perpetuation of certain human rights violations;

7. Welcomes with satisfaction the Security Council decision providing, in the context of the measures adopted under the Governors Island Agreement, for the deployment of the United Nations Mission in Haiti with the objective of cooperating with the lawful authorities for the professionalization of the army, the creation of a separate police force and the setting up of the necessary structures to guarantee the country a climate for the establishment of democracy;

8. Requests the Secretary-General of the United Nations to take any initiatives which may lead to a prompt solution to the crisis, particularly those which will peacefully re-establish constitutional order in the country, allow the constitutional President of the Republic, Jean-Bertrand Aristide, to return to Haiti and thus guarantee human rights;

9. Calls upon the States Members of the United Nations and other international organizations to intensify their humanitarian assistance to the people of Haiti, support all the efforts made to solve the problems of displaced persons and encourage the strengthening of the institutional coordination between the specialized agencies of the United Nations and between the United Nations and the Organization of American States;

10. Expresses the hope that the good offices mission being prepared by a group of Latin American countries will be successful;

11. Decides to continue its consideration of the situation of human rights in Haiti at its forty-seventh session, under agenda item 6.

UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.42
19 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Mr. Decaux, Mr. El-Hajjé, Mrs. Forero Ucros,
Mr. Hatano and Mr. Hakim: draft resolution

Discrimination in the context of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Mindful that respect for the principle of non-discrimination is the key to the protection and realization of fundamental human rights and freedoms as recognized and protected by international standards,

Convinced that discrimination against any person on the grounds of AIDS or HIV infection, actual or presumed, violates fundamental human rights and freedoms,

Alarmed at discriminatory laws and policies and the emergence of new forms of discriminatory practices which deny people with HIV infection or AIDS, their families and associates, as well as those presumed to be infected or at risk of infection, enjoyment of their fundamental rights and freedoms,

Concerned that lack of full enjoyment of their fundamental rights by persons suffering from economic, social or legal disadvantage heightens their vulnerability to the risk of HIV infection,

Noting that, according to a report submitted to the Commission on the Status of Women at its thirty-third session (E/CN.6/1989/6/Add.1), women are especially vulnerable to the risk of HIV infection and to the economic and social impact of AIDS as a result of their disadvantaged social, legal and economic status,

Concerned that evidence indicates that other groups in society suffering indiscrimination in the enjoyment of their fundamental rights and freedoms, notably indigenous peoples, minorities, street children and other children with inadequate care and those living in poverty and social disadvantage, are also more vulnerable to the risk of infection as a result of disadvantage in access to education, health care and social services, and that they suffer disproportionately from the economic and social consequences of the pandemic,

Concerned also that the fear and ignorance surrounding AIDS are leading to increased stigmatization of and prejudice against people with HIV and AIDS and members of particular groups in society resulting, in some countries, in increasing violence against such individuals, arbitrary detention and deportation,

Recalling Commission on Human Rights resolution 1994/49 of 4 March 1994 in which the Commission called upon all States to ensure respect for human rights in the context of AIDS and to ensure full enjoyment of all rights by people with HIV and AIDS, their families and those associated with them, and to take measures to combat social stigmatization and discrimination,

Bearing in mind World Health Assembly resolution WHA.45.35 of 14 May 1992 in which the Assembly recognized that there was no public health rationale for any measures that limit the rights of the individual, notably measures establishing mandatory screening, and called upon States to reinforce efforts to oppose discrimination against persons and specific groups known to be or suspected of being infected with HIV,

Recognizing that measures to combat discrimination and social stigma form an essential part of an effective public health strategy,

Welcoming the decision of the Economic and Social Council, contained in its resolution 1994/24 of 26 July 1994, endorsing the establishment of a joint and co-sponsored United Nations programme on HIV/AIDS,

1. Confirms that discrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards, and that the term "or other status" in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS;

2. Calls upon all States to review their laws, policies and practices in the context of HIV and AIDS in order to ensure that they respect human rights standards, including the prohibition of AIDS-related discrimination, and to take all the necessary steps, including the introduction of protective legislation and appropriate education, to combat discrimination, prejudice and stigma, and to ensure the full enjoyment of civil, political, economic, social and cultural rights by people with HIV and AIDS, their families and those associated with them, and people presumed to be at risk of infection;

3. Also calls upon all States to strengthen their efforts to advance the legal, economic and social status of women, children and indigenous peoples, as well as of minorities and other groups suffering discrimination in the enjoyment of their rights, in order to render them less vulnerable to the risk of HIV infection and to the adverse socio-economic consequences of the AIDS pandemic;

4. Commends the Working Group on Contemporary Forms of Slavery for giving attention to protecting children from the risk of HIV infection resulting from sexual exploitation;

5. Requests the Commission on Human Rights to consider recommending the organization by the Centre for Human Rights of a second international expert consultation on human rights and AIDS, with particular emphasis on the prevention of AIDS-related discrimination and stigma;

6. Also requests the Commission on Human Rights to consider the appropriate methods by which to keep under continuous review the protection of the rights of people affected by AIDS-related discrimination;

7. Welcomes the request by the Commission on Human Rights to the Secretary-General to submit to the Commission at its fifty-first session a report

on international and domestic measures taken to protect human rights and prevent discrimination in the context of HIV/AIDS, and recommends that this report consider the development of a declaration on respect for human rights in the response to AIDS and guidelines for the prevention of AIDS-related discrimination;

8. Also welcomes the report of the Secretary-General on developments in the United Nations system concerning HIV and AIDS, in particular the progress made in establishing a joint and co-sponsored United Nations programme on HIV/AIDS (E/CN.4/Sub.2/1994/8), and requests the co-sponsors of the future programme to integrate a strong human rights component into the programme's strategies and work;

9. Requests the Secretary-General to bring the present resolution to the attention of the relevant United Nations agencies and bodies, including working groups and special rapporteurs, as well as the treaty monitoring bodies, and urges all relevant bodies and procedures to consider the impact of AIDS-related discrimination within the context of their mandates and to include consideration of this issue in their reports;

10. Decides to keep the issue of AIDS-related discrimination under continuous review, and to give consideration to this issue under all relevant items of its agenda as well as in the work of its relevant working groups and special rapporteurs.

UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.43
19 August 1994

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Ms. Daes, Mr. El-Hajjé, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hatano, Mr. Hakim, Mr. Joinet, Mr. Khan, Mr. Lindgren Alves, Mr. Maxim, Mrs. Palley and Mr. Ramadhane:
draft resolution

Obstacles to the establishment of a democratic society

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind the fulfilment of its mandate, as defined by the various resolutions of the Economic and Social Council and the Commission on Human Rights,

Pursuing the objectives laid down in the Charter of the United Nations in regard to the establishment of conditions for the maintenance of justice and the equal rights of men and women and promotion of social progress and better standards of life in larger freedom,

Taking into consideration article 29, paragraph 2, of the Universal Declaration of Human Rights,

Bearing in mind that the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights affirms that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing (A/CONF.157/24, para I.8),

Fully aware that the establishment of the conditions for a democratic society is essential for prevention of discrimination and protection of minorities,

1. Decides to include in the agenda of its forty-seventh session an item entitled "Study of the elimination of obstacles to the establishment of a democratic society and conditions for the maintenance of such a society";

2. Entrusts the Chairman of the Sub-Commission with the task of requesting one of its members to prepare a working paper on that question for its forty-seventh session.

UNITED NATIONS **E**

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.44
19 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Eide, Mr. Hatano, Mr. Hakim, Mr. Khan, Mr. Maxim
Ms. Palley and Mr. Yimer: draft resolution

Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1993/41 of 28 August 1993, 1992/14 of 27 August 1992 and 1991/12 of 26 August 1991,

Recalling also Commission on Human Rights resolution 1993/77 of 10 March 1993,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity,

Concerned that, according to United Nations statistics, in excess of one billion persons throughout the world are homeless or inadequately housed, and that this number is growing,

Recognizing that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness, the loss of livelihood, landlessness, inadequate housing and living conditions and growing levels of poverty,

Disturbed that forced evictions and homelessness intensify social conflict and inequality and invariably affect the poorest, most socially, economically, environmentally and politically disadvantaged and vulnerable sectors of society,

Aware that forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a range of actors,

Aware also that racially motivated and other discriminatory motives are behind a large number of forced evictions,

Emphasizing that ultimate legal responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6),

Mindful of the questions concerning forced eviction included in the guidelines for States' reports submitted in conformity with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1991/23, annex IV),

Noting with appreciation that the Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 (1991) considered that instances of forced eviction were, prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law (E/1992/23, annex III, para. 18),

Recalling the conclusions and recommendations contained in the analytical report compiled by the Secretary-General on forced evictions (E/CN.4/1994/20), submitted to the Commission on Human Rights at its fiftieth session,

Noting the concluding observations of the Committee on Economic, Social and Cultural Rights at its fifth (1990) to tenth (1994) sessions concerning forced evictions within specific States parties,

Noting also the inclusion of forced evictions as one of the primary causes of the international housing crisis in the working paper and the first and second progress reports of the Special Rapporteur on promoting the realization of the right to adequate housing, Mr. Rajindar Sachar (E/CN.4/Sub.2/1992/15, E/CN.4/Sub.2/1993/15 and E/CN.4/Sub.2/1994/20),

1. Reaffirms that the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing;

2. Strongly urges Governments to undertake immediately all necessary measures, at all levels, towards eliminating the practice of forced eviction, in particular those Governments on whose territories forced evictions are currently planned to take place;

3. Also strongly urges Governments to confer legal security of tenure on all persons currently threatened with forced eviction and to adopt all necessary legal, administrative and other measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes or needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups;

5. Invites all international financial, trade, development and other related institutions and agencies, in particular those associated with the United Nations, to take fully into account the views contained in the present resolution, and pronouncements under international law on the practice of forced eviction;

6. Invites the Committee on Economic, Social and Cultural Rights to consider adopting a general comment on forced evictions with reference to the specific obligations of States parties as contained in the International Covenant on Economic, Social and Cultural Rights, in particular as they relate to the right to adequate food and housing;

7. Invites all country and thematic rapporteurs of both the Sub-Commission and the Commission on Human Rights to include cases of forced eviction in their respective reports and to seek to monitor consistently the practice of forced evictions as they relate to the countries and themes involved;

8. Invites the treaty bodies to examine forced evictions within the context of their respective mandates;

9. Requests the Preparatory Committee for the United Nations Conference on Human Settlements (Habitat II), to be held in 1996, to address the issue of forced eviction, in particular as a violation of the right to adequate housing, in the agenda, the principles and guidelines and the plan of action to be developed within the framework of the Conference;

10. Requests the Secretary-General, in view of the numerous developments concerning this practice within various programmes of the United Nations, to compile and publish, within the Human Rights Fact Sheet series, a fact sheet on forced evictions and human rights;

11. Requests the Commission on Human Rights to consider how best to proceed with further activities on the question of forced eviction under the agenda item entitled "Realization of economic, social and cultural rights";

12. Requests the Secretary-General, in accordance with paragraph 172 of his analytical report (E/CN.4/1994/20), to prepare a series of guidelines on international events and forced evictions;

13. Decides to consider the issue of forced eviction at its forty-seventh session under the agenda item entitled "The realization of economic, social and cultural rights" and to determine at its forty-seventh session how most effectively to continue its consideration of the issue of forced evictions.

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UNITED NATIONS

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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.45
22 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 20

IMPLICATIONS OF HUMANITARIAN ACTIVITIES FOR THE ENJOYMENT OF HUMAN RIGHTS

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Daes, Ms. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hatano, Mr. Hakim, Mr. Decaux, Mr. Khalil, Mr. Khan, Mr. Fix Zamudio, Mr. Lindgren Alves, Mr. Maxim, Mr. Ramadhane, Ms. Warzazi amd Mr. Yimer: draft resolution

Question of the implications for human rights of United Nations action, including humanitarian assistance in addressing international humanitarian problems and in the promotion and protection of human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Mindful that one of the purposes of the United Nations is to achieve international cooperation in solving problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion;

2. Considering that all States Members of the United Nations have the duty to respect and to promote respect for the basic principles of international law enshrined in Article 2 of the Charter of the United Nations, as well as to implement Articles 55 and 56;

3. Reaffirming the principles of the sovereignty and territorial integrity of States, and that it is the responsibility of each State to care for the victims of natural disasters and other emergency situations occurring on its territory;

4. Reaffirming also the functions and competence as established in the Charter for the principal organs of the United Nations, in particular those relating to the need to foster international cooperation to achieve the promotion of universal respect for and observance of the human rights and fundamental freedoms of all;

5. Aware of the growing involvement of the United Nations in providing and coordinating humanitarian assistance to the victims of disasters and other emergency situations;

6. Reaffirming the close relationship which exists between general international law, international humanitarian law, international human rights law, refugee law and humanitarian assistance;

7. Aware that effective United Nations actions in the humanitarian field require a comprehensive analysis of the relevant legal principles and norms in relation to international cooperation in the humanitarian and human rights spheres in the light of the provisions of the Charter of the United Nations and other applicable international norms, and that such United Nations actions would benefit from a thorough evaluation and clarification of the issues involved;

8. Recalling General Assembly resolution 45/100 of 14 December 1990, in which the Assembly reaffirmed the cardinal importance of humanitarian assistance for the victims of natural disasters and similar emergency situations;

9. Recalling also General Assembly resolution 45/102 of 14 December 1990, in which the Assembly encouraged the international community to contribute substantially and regularly to international humanitarian activities, and stressing, in this context, the importance of further developing international cooperation in the humanitarian field to facilitate better understanding, mutual respect, confidence and tolerance among countries and peoples, thus contributing to a more just and non-violent world;

10. Noting General Assembly resolution 47/120V of 18 December 1992, in which the Assembly, welcoming the increasing role of the United Nations system in

providing humanitarian assistance, encouraged the Secretary-General to continue to strengthen the capacity of the Organization in order to ensure coordinated planning and execution of humanitarian assistance programmes, drawing upon the specialized skills and resources of all parts of the United Nations system, as well as those of non-governmental organizations, as appropriate;

11. Noting also General Assembly resolution 48/116 of 20 December 1993, in which the Assembly, noting with concern that the number of refugees and other persons to whom the Office of the United Nations High Commissioner for Refugees was called upon to provide assistance and protection had continued to increase and that their protection continued to be seriously jeopardized in many situations as a result of, inter alia, the failure to respect and ensure their fundamental freedoms and human rights, reaffirmed its support for the High Commissioner's efforts to provide humanitarian assistance and protection, taking into account the complementarities of the mandates and expertize of other relevant organizations;

12. Welcoming the activities of the newly created Department for Humanitarian Affairs, which should be reinforced;

13. Bearing in mind General Assembly resolution 48/57 of 14 December 1993, in which the Assembly expressed its deep concern about the increasing number and growing magnitude and complexity of natural disasters and other emergencies and stressed the need for improved coordination within the United Nations system and the necessity for the Department of Humanitarian Affairs to collect and disseminate timely information on natural disasters and other humanitarian emergencies in order to provide early warning of a crisis, and to assess needs on a continuing basis;

14. Mindful of the complexity and sensitivity of United Nations humanitarian action currently being undertaken in a number of countries plagued by war or internal conflict;

15. Mindful also of the role of the Sub-Commission, as a body of independent experts in the field of human rights, in providing competent United Nations bodies with its views within its area of competence, with the aim of establishing, in a collective effort, a better understanding of the complex

interrelationship between human rights and humanitarian considerations, thereby providing the United Nations with a more secure foundation for future action;

1. Expresses its appreciation to Mrs. Claire Palley for her further preparatory document on the question of the implications of humanitarian activities for the enjoyment for human rights (E/CN.4/Sub.2/1994/39);

2. Reaffirms the important role of the United Nations system as a whole in encouraging international cooperation in order to protect and promote human rights, as well as to address natural and man-made disasters, provide humanitarian assistance and coordinate disaster relief;

3. Decides to recommend to the Commission on Human Rights the appointment of Mrs. Claire Palley as Special Rapporteur of the Sub-Commission on the question of the implications for human rights of United Nations action under the Charter, including humanitarian assistance, in addressing international humanitarian problems and in the promotion and protection of human rights;

4. Requests the Special Rapporteur to submit a preliminary report at its forty-seventh session, a progress report at its forty-eighth session and her final report at its forty-ninth session;

5. Invites the members of the Sub-Commission to submit to the Special Rapporteur their views on the question;

6. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance, including the resources required, to complete her study;

7. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1994/.. of .. August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the Sub-Commission's request to appoint Mrs. Claire Palley as Special Rapporteur on the question of the implications for human rights of United Nations action, including humanitarian assistance, in addressing international humanitarian problems and in the promotion and protection of human rights, also endorses the Sub-Commission's request to the Secretary-General to provide the Special Rapporteur with all the necessary

assistance, including the resources required, to complete her study, and proposes the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council, taking note of Commission on Human Rights decision 1995/.. of .. 1995, authorizes the appointment of Mrs. Claire Palley as Special Rapporteur on the question of the implications for human rights of United Nations action, including humanitarian assistance, in addressing international humanitarian problems and in the promotion and protection of human rights, and also endorses the Sub-Commission's request to the Secretary-General to provide the Special Rapporteur with all the necessary assistance, including the resources required, to complete her study.'"

UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.46
19 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Fan, Ms. Ferriol Echevarria, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Hatano, Mr. Lindgren Alves, Mr. Maxim and Ms. Warzazi:
draft resolution

Human rights and income distribution

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Mindful that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and a wide range of additional texts provide unequivocally that all persons are entitled to the full realization of economic, social and cultural rights,

Taking note of the Declaration on the Right to Development (General Assembly resolution 41/128 of 4 December 1986, annex),

Recalling paragraph I.10 of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights inter alia reaffirmed the right to development as a universal and inalienable

right and an integral part of human rights, and urged States and the international community to promote an effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

Aware that all States have legally binding obligations to respect, protect and fulfil economic, social and cultural rights,

Convinced that education plays a fundamental role for the exercise of human rights and for providing equality of opportunity for all,

Recalling the reports of the Special Rapporteur on the realization of economic, social and cultural rights, Mr. Danilo Türk, in particular his final report, which addressed a range of issues concerning the relationship between the enjoyment of human rights and income distribution (E/CN.4/Sub.2/1992/16, paras. 76-84),

Concerned that the implementation of economic, social and cultural rights in general and the right to education in particular have not yet received sufficient attention within the United Nations human rights framework,

Noting its resolution 1993/40 of 26 August 1993 in which it decided to entrust Mr. Asbjørn Eide with the task of producing, without financial implications, a preparatory document on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution, at both national and international levels, taking also into account matters related to the realization of the right to development, with a view to determining how most effectively to strengthen activities in this field,

Noting also Commission on Human Rights resolution 1994/20 of 1 March 1994, in which the Commission endorsed the decision of the Sub-Commission and encouraged the Sub-Commission to continue to give attention to this issue,

Aware that the relationship between income distribution and growing levels of poverty, as well as the violation of human rights, requires further in-depth research and analysis by the human rights community,

Reiterating the fundamental principles of equality of treatment, human dignity, equity and justice,

Affirming the inherent linkages between the enjoyment of all human rights, in particular economic, social and cultural rights, and the striving towards a more equitable distribution of economic resources both within and between nations,

1. Welcomes the preparatory document on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution, prepared by Mr. Asbjørn Eide (E/CN.4/Sub.2/1994/21);

2. Endorses his conclusion that concentration of wealth constitutes serious obstacles to the realization of human rights, be they economic, social, cultural, political or civil, and that equality of opportunity is an essential element for participating effectively in the processes of development and for obtaining a just share of the benefits from it;

3. Decides to appoint Mr. José Bengoa as Special Rapporteur on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution, at both national and international levels, taking also into account matters related to the realization of the right to development, with a view to determining how most effectively to strengthen activities in this field;

4. Requests the Special Rapporteur to pay particular attention to the impact of the enjoyment of human rights, and that of the right to education in particular, on income distribution;

5. Also requests the Special Rapporteur to submit a preliminary report at its forty-seventh session, a progress report at its forty-eighth session and a final report at its forty-ninth session;

6. Requests the Secretary-General to invite Governments, United Nations bodies, the specialized agencies and intergovernmental and non-governmental organizations to provide the Special Rapporteur with information relevant to the preparation of his report;

7. Also requests the Secretary-General to provide the Special Rapporteur with all the assistance he may require for the preparation of his study.

UNITED NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.47
19 August 1994

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Bengoa, Mrs. Ferriol Echevarria, Mr. Fix Zamudio,
Mrs. Forero Ucros and Mrs. Warzazi: draft resolution

Human rights and extreme poverty

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolutions 1992/11 of 21 February 1992 and 1993/13 of 26 February 1993 and its own resolution 1992/27 of 27 August 1992 concerning the execution by the Sub-Commission of a study on human rights and extreme poverty and the appointment of Mr. Leandro Despouy as Special Rapporteur on that question,

Recalling its resolution 1993/35 of 25 August 1993, in which it took note with appreciation of the preliminary report of the Special Rapporteur (E/CN.4/Sub.2/1993/16),

Noting Commission on Human Rights resolution 1994/12 of 25 February 1994, in which the Commission approved the recommendations of the Special Rapporteur relating to the organization of a seminar on extreme poverty and the denial of human rights at a time close to the International Day for the Eradication of

Poverty, instituted on 17 October of each year by the General Assembly in its resolution 47/196 of 22 December 1992, and endorsed Sub-Commission resolution 1993/35 taking note of the preliminary report of the Special Rapporteur,

1. Takes note with appreciation of the interim report on human rights and extreme poverty (E/CN.4/Sub.2/1994/19) submitted by the Special Rapporteur, Mr. Leandro Despouy;

2. Welcomes the approach proposed by the Special Rapporteur in his report;

3. Approves the proposals of the Special Rapporteur concerning the holding of a seminar on the topic "Extreme poverty and the denial of human rights" approved by the Commission and scheduled for 12-14 October 1994 in New York, and in particular the proposals intended to encourage participation and statements by persons living in extreme poverty and persons working alongside them in a genuine partnership, thereby responding paragraphs I.14 and I.25 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23);

4. Requests the Special Rapporteur to submit, at its forty-seventh session, a second interim report on the topic of human rights and extreme poverty taking account of the comments made, particularly by the members of the Sub-Commission, during consideration of his first interim report, and the results of the seminar on the topic "Extreme poverty and the denial of human rights", and including the initial results of his consultation with persons living in extreme poverty and persons working alongside them;

5. Considers that it would be useful for the Special Rapporteur to submit the results of the seminar to the Commission on Human Rights at its fifty-first session and to the World Summit for Social Development to be held on 11 and 12 March in Copenhagen;

6. Expresses the wish that the consultation undertaken by the Special Rapporteur should be continued, and invites Governments, intergovernmental organizations, specialized agencies and non-governmental organizations that have not yet done so to answer the questionnaire prepared by him;

7. Requests the Special Rapporteur to submit to it, at its forty-eighth session, a final report focusing on the results of his consultation with persons living in extreme poverty and persons working alongside them, and taking account of the conclusions and relevant data emerging from the World Summit for Social Development in March 1995 and the Fourth World Conference on Women to be held in Beijing in 1995, and of the activities to be undertaken in

1996, which has been proclaimed by the General Assembly International Year for the Eradication of Poverty in resolution 48/183 of 21 December 1993;

8. Requests the Secretary-General to make available to the Special Rapporteur the human and material resources necessary for the fulfilment of his mandate, in particular for the holding of the seminar on the topic "Extreme poverty and the denial of human rights";

9. Recommends the following draft resolution to the Commission on Human Rights for adoption:

"The Commission on Human Rights,

Endorsing resolution 1994/.. of the Sub-Commission on Prevention of Discrimination and Protection of Minorities dated .. August 1994;

Having taken note of the results [of the work] of the seminar on the topic 'Extreme poverty and the denial of human rights' organized by the Special Rapporteur;

Recommends the following draft resolution to the Economic and Social Council for adoption:

'The Economic and Social Council,

Recalling Commission on Human Rights resolution 1995/.. dated ... 1995 and resolution 1994/.. of the Sub-Commission on Prevention of Discrimination and Protection of Minorities dated .. August 1994,

1. Takes note of the proposals of the Special Rapporteur on the study of the question of human rights and extreme poverty;

2. Requests the Secretary-General to make available to the Special Rapporteur the human and material resources necessary for the fulfilment of his mandate'."

UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.48
19 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 13

ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mrs. Daes,
Mr. Decaux, Mr. El-Hajjé, Mr. Fan, Mr. Fix Zamudio,
Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hatano,
Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Lindgren Alves, Mr. Maxim,
Ms. Palley, Ms. Warzazi and Mr. Yimer: draft resolution

Encouragement of universal acceptance of human rights instruments

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1992/1 of 14 August 1992, in which it requested its Chairman to appoint one of its members to report to the Sub-Commission on the progress made in the universal acceptance of human rights instruments,

Bearing in mind steps taken in earlier years by the Sub-Commission to consider ways and means of encouraging Governments which had not yet done so to ratify or accede to international human rights instruments,

Considering that since 1979, the year when the Sub-Commission began systematically to address the issue of encouraging universal ratification of international human rights instruments, no substantive progress has been made in its attempt to convince Governments of the utility of the involvement of the United Nations in assisting them to ratify human rights instruments,

Taking note of the absence of any formal response from Member States to the invitations extended to them to offer clarification as to why they are unable to ratify these instruments,

Taking note also of the absence of advisory services on this issue provided by the Centre for Human Rights at the request of States, resulting from the continued lack of interest by States in the matter,

Noting with appreciation the extensive and continuous attempts to promote further ratifications undertaken by the High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the Centre for Human Rights,

Reaffirming the importance of the ongoing informal consultations between these United Nations entities and Member States resulting from those promotional activities,

Bearing in mind the ongoing problems in the rationalization of its work, especially during its forty-sixth session,

1. Decides to discontinue consideration of this matter under a separate agenda item;

2. Also decides to take up these issues when they arise under the existing items of its agenda.

UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1994/L.49
19 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Mr. Bengoa, Ms. Chavez and Mr. Hatano: draft resolution

Relocation of Navajo and Hopi Families

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1989/37 of 1 September 1989 and 1990/34 of 31 August 1990 concerning the relocation of Navajo and Hopi families from northern Arizona in the United States of America,

Recalling also the reports prepared by Ms. Erica-Irene Daes and Mr. John Carey (E/CN.4/Sub.2/1989/35, part I and part II and Add.1) pursuant to its decision 1988/105 of 1 September 1989,

Mindful of the conclusions contained in the working paper on human rights dimensions of population transfer, including the implantation of settlers and settlements prepared by Ms. Christy Mbonu (E/CN.4/Sub.2/1981/47), with respect to the impact of such activities on the enjoyment of human rights,

1. Recommends that members of the Navajo Nation and Hopi Tribal Council participate in court-ordered mediation to seek a peaceful settlement of the situation;

2. Expresses the hope that mediation will result in a settlement that respects the rights and dignity of the families directly affected;

3. Appeals to the Government of the United States of America to ensure, through cooperation with the court-appointed mediator, that no further relocation of these families takes place;

4. Requests the mediator to submit all relevant information regarding the human rights aspects of the case in question and the outcome of the mediation to the Sub-Commission;

5. Decides to monitor the situation and gather information, including the mediator's reports, for the future work of and consideration by the members of the Sub-Commission and other bodies of the United Nations;

6. Requests the Secretary-General to invite indigenous peoples' organizations, Governments and non-governmental organizations to submit information concerning the progress of the court-ordered mediation for consideration by the Sub-Commission at its forty-seventh session.

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